

REGULAR MEETING – NOVEMBER 8, 2012

The Mayor and City Council met in regular session on Thursday, November 8, 2012 at 7:00 p.m. in the Council Chambers of City Hall located at 114 West Sycamore Street, Lincolnton North Carolina. Mayor John O. Gilleland, Jr. called the meeting to order and thanked everyone for participating in city government.

Those in attendance were:

RHYNE CLONINGER HEAVNER HOVIS

Mayor Gilleland began by thanking everyone for attending the meeting, especially Daniel Eaker who was part of the 2007 State Championship Football Team for Lincoln High School.

Mayor Gilleland proceeded to lead everyone in the Pledge of Allegiance.

Councilman Cloninger made the motion unanimously approved the **REGULAR AGENDA** as presented.

Councilman Rhyne made the motion unanimously approved the **CONSENT AGENDA** as follows:

- Approval of the October 4, 2012 regular meeting minutes
- Proclamations:
 - National Caregivers Month – November 2012
 - Small Business Saturday – November 24, 2012
- Calls to Public Hearing – CUP-11-2012 Application from Mike and Martha Goins requesting a conditional use permit to operate a customary home occupation with an outside accessory building in the Residential-25 (R-25) District. The home occupation will be a Dog Day Care and Boarding Business. The subject property is located on the east side of Laboratory Road approximately 700 feet south of the intersection of Laboratory Road and Massapoag Road (Parcel ID 17139)
- (C-23-12) – 2nd Supplemental agreement between the NC Department of Transportation and the City of Lincolnton (Agreement ID 3706) – Phase III of the Marcia H. Cloninger Rail Trail
- Revised Order of Collection – for 2012-2013 Taxes – *NOTE: Action is necessary due to retirement of Madge Huffman – Name Change; Jon Stevens, Interim Tax Administrator*

CUP-10-2012

Application from New Dominion Bank requesting the renewal of a conditional use permit to construct a 33-unit condominium complex. The subject property is located within the Lincoln County Club property approximately 650 feet north of Country Club Road and approximately 450 feet east of Lithia Inn Road north of the driving range.

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Laura Simmons, Planning Director, addressed Council stating that in 2006 City Council issued a conditional use permit to Romeg Development to construct a 33-unit condominium complex on property located at the County Club. The property is north of Country Club Road and east of Lithia Inn Road near the driving range facility.

The UDO gives applicants 3 to 4 months to secure a building permit after approval of a conditional use permit and if a building permit is not obtained within a two-year period, then the applicant can seek renewal of the conditional use permit through City Council. The conditional use permit was renewed in 2008 and then automatically extended through the states permit extension act until October of this year. Since the renewal of the conditional use permit in 2008, the original applicant lost the property due to foreclosure. A new owner acquired the property in 2010 and has had the property for sale since that time. New Dominion states in their renewal application that they are actively marketing the property and will continue to pursue a buyer. Planning Board and Staff recommend that the permit be extended for a period of 2 years.

Leonard McAlister, property owner in the area, addressed City Council. Mr. McAlister questioned why New Dominion does not have to comply with the same restrictions he and the other property owners had to comply with which limits construction to single family housing with the first floor having 1750 sq. ft.

Mayor Gilleland stated that it was brought before Council, years ago, as a conditional use permit.

Discussion followed with T. J. Wilson, Mr. McAlister and Council.

Councilman Heavner made a motion unanimously approved to close the public hearing.

Councilman Hovis made a motion unanimously approved to renew the conditional use permit.

RESOLUTION HONORING JAMES A. RHYNE – SUPERINTENDENT OF THE WASTEWATER TREAT PLANT:

(R-09-12)

Mayor Gilleland asked Jamie Rhyne to come forward. He presented Jamie with a framed resolution honoring his service with the City of Lincolnton. It read as follows:

R E S O L U T I O N Of Appreciation For J A M E S S. R H Y N E

WHEREAS, *James S. Rhyne* began employment with the City of Lincolnton on March 9, 1983 as a Wastewater Treatment Plant Operator; and

WHEREAS, *James S. Rhyne* is recognized for earning and maintaining many certifications in his chosen field of wastewater management, attaining the highest grade, Wastewater Treatment Plant Operator Certification IV through the NC Department of Environment and Natural Resources in October of 1987; and

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WHEREAS, *James S. Rhyne* throughout his tenure has demonstrated strong leadership qualities, always doing his utmost to ensure that the citizens of Lincolnton were protected from environmental risks; and

WHEREAS, the performance of his duties, responsibilities and his working relationships throughout his twenty-nine years of service were always characterized by an obvious dedication and commitment to the City and the citizens he served;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Lincolnton, that appreciation be shown to ***James S. Rhyne***, honoring his upcoming retirement on December 1, 2012, and that we extend congratulations and best wishes to him for continued success in all his future endeavors.

Adopted and presented this the 8th day of November, 2012.

RESOLUTION SUPPORTING THE RETURN OF “HOLD HARMLESS” MONIES TO NORTH CAROLINA CITIES:

City Manager Jeff Emory addressed Council members explaining that in 2002 the North Carolina General Assembly repealed what was then known as the “inventory tax” which was a source of revenue for local governments and close to that tax they appropriated an additional ½ cent sales tax but they kept up with their calculation and for the 117 municipalities and 17 counties that the sales tax didn’t make up the difference they adopted a “hold harmless” agreement so that no units of government would actually lose money. We are one of the 117 that has received the “hold harmless” funds because the sales tax didn’t make up the difference and what this resolution is doing is asking that the “hold harmless” funds be put back in the state’s budget until everyone is fully reimbursed or compensated by the additional sales tax to equate to the amount we lost. What this means for Lincolnton is an approximate \$100,000.00 loss from the general fund revenue. Mr. Emory strongly suggested that Council adopt the resolution.

Councilman Heavner made a motion unanimously approved to adopt the resolution.

CONSIDERATION OF AWARDING BIDS FOR PROPERTY & CASUALTY INSURANCE FOR THE CITY OF LINCOLNTON TO ALLIED WORLD IN THE AMOUNT OF \$170,319 (CONTRACT WOULD BE FOR A THREE-YEAR PERIOD 2012-2015):

(C-24-12)

Georgetta Williams, Finance Director, addressed Council. Ms. Williams presented a recommendation by the City’s risk management consultant, Mr. C. J. Spivey, for property and casualty insurance which will take effect November 15, 2012. All bids were thoroughly reviewed and Allied World came in with the lowest bid at \$170,319 saving the City 20% from last year.

Ms. Williams proposes that Council award the bid to Allied World.

Councilman Rhyne made a motion unanimously approved to award the bid to Allied World.

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UPDATE ON DRAFT COMPREHENSIVE TRANSPORTATION PLAN FROM NORTH CAROLINA DEPARTMENT OF TRANSPORTATION:

Linda Dosse from the North Carolina Department of Transportation made a presentation to City Council on the status of the Lincolnton Area Comprehensive Transportation Plan. Linda noted that the purpose of the status update is to ensure awareness of the CTP process and status, to show initial ideas for highway improvements, and to provide an opportunity for comments by the City Council members.

The Lincolnton CTP is a joint effort between Lincolnton, Lincoln County, Lake Norman RPO, and NCDOT. The Lincolnton CTP was started in 2010. This plan will replace the current thoroughfare plan which was mutually adopted in 1996 and some areas of the Lincoln County CTP which was mutually adopted in 2006.

Linda noted that the CTP steps completed so far are:

- Development of the CTP vision, including conducting a transportation goals and objectives survey.
- Establishment of CTP planning area boundary, roads to be studied, and traffic analysis zones.
- Development, documentation, and validation of a transportation demand model.
- Analysis of current and future highway deficiencies.
- Drafts of the CTP highway, transit, bicycle, and pedestrian maps have been shared with city and county planning staff and with the city council. Input has been received from city, county, and RPO planning staff, as well as several citizens, at meetings held in the spring and summer of 2012.
- These maps include strategies to address transportation deficiencies, i.e. where to improve or add roads, sidewalks, bicycle accommodations, multi-use trails, and public transportation and rail service.
- Development of draft CTP maps and descriptions of proposed improvements.

Linda noted that the next steps in the process will be:

November 2012:

- Conduct public workshop.
- Address comments and revise CTP maps as needed.

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January 2013:

- Present draft CTP to Lincolnton City Council and Lincoln County for adoption.
- Thirty day public comment period.
- Present recommended CTP to Lincolnton and Lincoln County for adoption.

February 2013

- Present recommended CTP to Lake Norman RPO for endorsement.

Spring 2013:

- Present recommended CTP to NCDOT Board of Transportation for mutual adoption.

Linda Dosse asked for comments from Council. Ms. Dosse added that when making the presentation before the Planning Board in October 2012, questions were brought up concerning problems on E. Main Street as there are areas along E. Main Street that are approaching capacity.

Ms. Dosse informed Council that this process is a bottom up and top down approach. The North Carolina Board of Transportation looked at local needs and state needs. State needs such as facilities that are on the future highway corridors system or the intra-state system.

The volume of traffic on E. Main Street will double by the year 2035. Crash analysis studies between 2008 and 2010 identified 17 locations that had ten or more crashes. Twelve of the 17 were between Generals Blvd. and Hwy 150.

Mayor Gilleland asked Ms. Dosse if the City will have input on the design.

Ms. Dosse suggested contacting the Traffic Engineering Branches - Congestion Management Unit with any recommendations. This unit will do a corridor analysis for E. Main Street from Grove Street all the way out to Hwy 150/27, signals, signal timing, crash locations, etc.

Mayor Gilleland asked about medians.

NCDOT process requires it to be on an adopted plan prior to decisions about medians whether they are concrete or landscaped.

Ms. Dosse will compile all comments from City and County Boards including individual citizens and update Council at a later date.

Mayor Gilleland asked Linda Dosse to communicate with Laura Simmons after the public workshop and thanked her for the update.

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Mayor Gilleland asked Ms. Dosse that she communicate with Laura Simmons after the Public Comment period and thanked her for the update

CONSIDERATION OF APPROVAL OF REQUEST FOR PROPOSALS (RFP's) FOR NE COURTSQUARE INFILL PROJECT LOCATED AT 103 E. MAIN STREET:

Brad Guth addressed Council stating that a copy of the second draft of the RFP was included in their packet. At this time we will review, consider input, answer any questions and entertain the idea of whether or not we're going to issue the request for proposals for the developers.

Mayor Gilleland asked if anything needed to be added to taken out of the RFP.

Councilman Rhyne asked if the proposal was addressing potential cost and what the City's financial commitment would be. Councilman Rhyne suggested that developers submit a bid bond up front.

Brad Guth stated that in the proposal the developer would be responsible for saying we want X number of dollars from the City to participate and we want to get the property for X number of dollars or for free.

Extensive discussion followed among Council members, T.J. Wilson and Brad Guth.

Councilman Heavner made a motion unanimously approved to proceed with RFP starting with \$0 amount and having T J. Wilson sign off on it.

Recess at 8:20 p.m. – Reconvene at 8:25 p.m.

CONSIDERATION OF ACCEPTANCE OF MOBILE CLASSROOM FROM LINCOLN COUNTY SHERIFF'S DEPARTMENT – TRANSFER OF OWNERSHIP; UNIT WOULD BE LOCATED AT THE FIRING RANGE OFF OF HWY. 27 WEST:

Chief Rodney Jordan addressed Council stating that the mobile classroom measures 24'X36'. School system was to surplus the classroom. Chief Jordan asked that Council allow the classroom to be donated to the Police Department for training. The total cost to the City would be \$7,300.00. The large closet inside the classroom could be turned into a restroom at a later date, new budget year and time to analyze the cost of adding water and sewer to the building.

Councilman Hovis made a motion unanimously approved to accept the unit.

DISCUSSION OF POTENTIAL OPTIONS REGARDING INTERNET SWEEPSTAKES:

Laura Simmons addressed Council stating that over the past decade, the North Carolina General Assembly has passed legislation in order to ban internet sweepstakes businesses. The bans have repeatedly been struck down by the courts. The most recent law that tried to ban the businesses is pending before the N.A. Supreme Court. While the NC Supreme Court case is pending, there are a number of cities throughout the state that are collecting privilege license fees on internet sweepstakes businesses. Fayetteville and Lumberton were two of the cities that imposed a

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license fee and lawsuits were filed against both cities with the plaintiffs in both cases being internet sweepstakes operators who challenged the authority of the cities to single out internet sweepstakes businesses for privilege license taxes and the amount of those taxes.

Staff's recommendation is to postpone consideration of privilege license fees until the pending cases before the state Supreme Court are decided. Regarding zoning standards Staff also recommends amending the UDO to require a 1000 foot separation between any two internet sweepstakes uses in order to ensure that an excessive number of sweepstakes uses are not located within any one shopping center.

Attorney T J. Wilson suggested the City wait to act on this until the Supreme Court makes its decision.

Councilman Cloninger made a motion unanimously approved to table the Internet Sweepstakes issue until a decision is made by the Supreme Court.

UPDATE ON STATUS OF PHASE III OF MARCIA H. CLONINGER RAIL-TRAIL:

Laura Simmons informed Council that grading is complete, the erosion control measures are installed and overhead lighting – poles and fixtures have been installed. Making good progress according to contra administrator and should have no problem meeting our deadline date. Ms. Simmons is grateful to Steve Peeler and Chris Wilson for getting the light fixtures installed in a very short period of time.

MONTHLY FINANCIAL UPDATE/OVERTIME REPORT:

Jeff Emory referred to the two pages included with the memorandum. The first page shows the current year financial summary through the month of September. Last month in the General Fund a negative balance appeared; but as fiscal government works, there may be a month with a lot of tax income which could make a change. By the end of September, there was a slightly over \$1,000,000,000.00 positive balance in the General Fund. Mr. Emory stated that the General Fund will show ups and downs as the year goes on. The Water and Sewer Fund so far has a positive balance \$1,346,888.32 as compared to last year's figure of \$1,102,518.84. The Electric Fund has a large balance of \$511,194.35. Mr. Emory feels that a full month's payment has not been paid bringing it more in line with what it was last year.

As of June 30, 2012, the Executive Summary in the General Fund F/Y 10/11 had a negative balance of (559,939.63) compared to F/Y 11/12 having a negative balance of (247,583.46) which was a big improvement. Water and Sewer Fund F/Y10/11 had a balance of \$910,015.02 and F/Y 11-12 - \$498,345.59. The reason that figure is less is we did the payment in lieu of taxes to the General Fund this year we also sent money to administrative fees. The Electric Fund F/Y 10-11 had a negative balance of (794,480.90) and FY 11-12 a negative balance of (696,069.20). The Occupancy Tax and Powell Bill Funds have strong balances which are not reflected in the Executive Summary. The Electric Fund is the one we need to put the most effort into.

Overtime this year for one quarter we are almost \$27,000.00 better off than last year.

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PUBLIC COMMENT:

No one spoke under the public comment portion of the agenda.

NEWS MEDIA:

There were no questions from the news media.

ADJOURNMENT:

Councilman Rhyne made a motion unanimously approved to adjourn the meeting.

**DONNA C. FLOWERS, CMC
CITY CLERK**

**JOHN O. GILLELAND, JR.
MAYOR**